

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

JOSE TRUJILLO,

Plaintiff,

v.

VEJAR'S, INC. dba Vejar's Mexican Restaurant  
& Cocktail Lounge, et al.,

Defendants.

Case No. 1:21-cv-01467-KES-SKO

**ORDER GRANTING IN PART  
PLAINTIFF'S MOTION FOR  
ATTORNEY'S FEES & COSTS**

(Doc. 36)

Before the Court is Plaintiff Jose Trujillo ("Plaintiff")'s motion for attorney's fees and costs. (Doc. 36). Defendants Vejar's, Inc., doing business as Vejar's Mexican Restaurant & Cocktail Lounge and Marketable Urban Investments, LLC ("Defendants") filed an opposition. (Doc. 38). The parties have consented to conduct the adjudication of this motion before the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c)(1), with any appeal to the Court of Appeals for the Ninth Circuit. (Docs. 51, 52). For the reasons given below, the Court will grant in part, Plaintiff's motion for attorney fees and costs.

**I. BACKGROUND**

Plaintiff filed this case on September 30, 2021, alleging that Defendants violated the Americans with Disabilities Act ("the ADA"), 42 U.S.C. §§ 12101 et seq.; California's Unruh Civil Rights Act ("the Unruh Act"), California Civil Code § 51, et seq.; and California Health and Safety Code §§ 19955(a), 19959. (Doc. 1 ("Comp.")). Specifically, Plaintiff alleged that he is substantially limited in his ability to walk and must use a wheelchair or prosthetic for mobility. (*Id.* at 2). On or around July 14, 2021, he alleges he visited Vejar's Mexican Restaurant & Cocktail Lounge ("the

1 facility”) in Tulare, California, to have dinner, but encountered the following barriers: (1) he was  
2 unable to find a designated accessible parking lot; (2) a lack of signage directing disabled persons  
3 to an accessible entrance, with the back entrance having stairs and the path to the front entrance  
4 from the back parking lot being uneven, excessively sloped, with height changes and gaps in the  
5 walking surface, and a front entrance that is excessively sloped and lacking in clear level space to  
6 maneuver and open the door; (3) a lack of clear space inside the front entrance to turn his wheelchair;  
7 (4) a lack of sufficient knee and toe clearances at his table to accommodate his wheelchair; (5) a  
8 lack of an accessible restroom; (6) a lack of accessible route to the outdoor bar patio; and (7) an  
9 inaccessible transaction counter. (*Id.* at 3–4). Because of these barriers, he was deterred from  
10 visiting the store, but alleges he would return once the barriers are removed. (*Id.* at 4). Plaintiff  
11 sought injunctive and declaratory relief, statutory damages, and attorneys’ fees and costs. (*Id.* at 9).  
12 Plaintiff’s complaint also stated that he would seek to amend his complaint to identify any additional  
13 existing barriers to Plaintiff’s access of the facility as it is “Plaintiff’s intention to have all barriers  
14 which exist at the Facility and relate to his disabilities removed to afford him full and equal access.”  
15 (*Id.*).

16 On December 13, 2021, Plaintiff requested an entry of default, and the Clerk entered a  
17 default against Defendants the next day. (*See* Doc. 7). That entry of default was set aside after a  
18 stipulation by the parties on January 10, 2022. (*See* Doc. 10). Defendants filed their answer on  
19 January 24, 2022. (Doc. 12).

20 Prior to the Court entering a scheduling order, Plaintiff provided Defendants a proposed  
21 “limited release”—limiting the released claims to those alleged in the Complaint rather than waiving  
22 claims as to barriers Plaintiff did not presently know about. (*See* Doc. 36-2 at 5–6). This was  
23 offered as an alternative to conducting an inspection to identify all barriers so that they could all be  
24 addressed in the settlement agreement, in order to obtain a “general release.” (Doc. 36-1 at 4).  
25 Plaintiff also offered another alternative: Defendants could have the entire Facility inspected  
26 themselves by a Certified Access Specialist (“CAsp”) so that all barriers could be identified and  
27 addressed in the settlement agreement, again resulting in a general release of claims. (*Id.*)  
28 Defendants considered the settlement—in particular the amount of attorney’s fees—unreasonable.

1 (See Docs. 36-1 at 4; 38 at 3). Defendants countered with an initial offer of \$3,000—which was  
2 later increased to \$4,000—in exchange for a *general* release, dismissal of the action with prejudice,  
3 and a covenant not to sue, (Doc. 38), which Plaintiff rejected because he was unwilling to agree to  
4 a general release without conducting a site inspection, (Doc. 36-1 at 4). Defendants’ offer also  
5 included a proposal that the parties submit the matter of attorney’s fees to the court to resolve on a  
6 motion. (Doc. 38 at 4). The parties also disagreed as to whether the property at issue was subject  
7 to the standards for existing or new facilities. (*Id.*).

8 After the Court granted several continuances of the initial scheduling conference to allow  
9 the parties to continue settlement discussions, on March 22, 2022, the Court held a scheduling  
10 conference on November 29, 2022 and issued a scheduling order the following day. (Doc. 27).

11 On April 7, 2022, Defendants sent a letter to Plaintiff outlining their understanding of  
12 settlement discussions. Defendants cited case law for the proposition that a party does not “prevail,”  
13 and therefore is not entitled to attorney’s fees, when they “fail[] to secure a judgment on the merits  
14 or a court ordered consent decree but ha[ve] nonetheless achieved the desired result because the  
15 lawsuit brought about a voluntary change in the defendant’s conduct.” (Doc. 38-3 at 3 (citing  
16 *Buckhannon Bd. & Care Home, Inc. v. W.V. Dept. of Health & Hum. Res.*, 532 U.S. 598 (2001))).  
17 Defendants articulated their argument that the circumstances of the settlement negotiations in this  
18 case and the prevailing party rule cited above amount to special circumstances that would support a  
19 denial of Plaintiff’s anticipated motion for attorney’s fees. (*Id.*) The Defendants also lodged their  
20 objection to any attorney’s fees incurred after the date of the letter. (*Id.*)

21 On April 12, 2022, Plaintiff’s expert inspected the subject property. (Doc. 36-2 at 7). On  
22 December 21, 2022, Plaintiff filed a motion to amend the complaint to add reference to the additional  
23 barriers found during the site inspection, (Doc. 28), which Defendants opposed, (Doc. 29). The  
24 Court granted the motion on January 19, 2023. (Doc. 31). The next day, Plaintiff filed his First  
25 Amended Complaint. (Doc. 32).

26 On February 23, 2023, the parties filed a stipulation of dismissal as they had agreed upon a  
27 settlement. (Doc. 34). The Court granted the parties’ stipulation to dismiss on March 7, 2023.  
28 (Doc. 35). In that order, based on the parties’ request, the Court retained jurisdiction to adjudicate

1 any subsequent motion for attorney’s fees. (*See id.*).

2 On May 5, 2023, Plaintiff filed a motion for attorney’s fees. (Doc. 36). Defendants untimely  
3 objected, (Doc. 38), and Plaintiff filed a reply, (Doc. 39). On September 13, 2024, the Court granted  
4 Defendants’ ex parte application for an extension of time, finding that Defendants’ seven-day delay  
5 was excusable neglect under Federal Rule of Civil Procedure 6(b)(1)(B). (Doc. 44). The Court  
6 vacated the hearing pursuant to Local Rule 230(g). (Doc. 37).

## 7 I. LEGAL STANDARDS

8 Under 42 U.S.C. § 12205, a party that prevails on an ADA claim may recover “a reasonable  
9 attorney’s fee, including litigation expenses,” at the Court’s discretion. “[F]or a litigant to be a  
10 ‘prevailing party’ for the purposes of awarding attorneys’ fees, he must meet two criteria: he must  
11 achieve a material alteration of the legal relationship of the parties, and that alteration must be  
12 judicially sanctioned.” *P.N. v. Seattle Sch. Dist. No. 1*, 474 F.3d 1165, 1171 (9th Cir. 2007) (internal  
13 quotation marks omitted).

14 The lodestar method guides the determination of a reasonable fee. *Antoninetti v. Chipotle*  
15 *Mexican Grill, Inc.*, 643 F.3d 1165, 1176 (9th Cir. 2010). “The ‘lodestar’ is calculated by  
16 multiplying the number of hours the prevailing party reasonably expended on the litigation by a  
17 reasonable hourly rate.” *Morales v. City of San Rafael*, 96 F.3d 359, 363 (9th Cir. 1996), *opinion*  
18 *amended on denial of reh’g*, 108 F.3d 981 (9th Cir. 1997).

19 The reasonable hourly rate is calculated by reference to the prevailing rate within the  
20 community for a similar type of work. *Vogel v. Harbor Plaza Ctr., LLC*, 893 F.3d 1152, 1158 (9th  
21 Cir. 2018). “Generally, when determining a reasonable hourly rate, the relevant community is the  
22 forum in which the district court sits.” *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 979 (9th  
23 Cir. 2008).

24 Regarding what may be reasonably billed for, “purely clerical or secretarial tasks should not  
25 be billed at a paralegal or [lawyer’s] rate, regardless of who performs them.” *Missouri v. Jenkins*,  
26 491 U.S. 274, 288 n.10 (1989). Thus, courts have discounted billing entries for “filing, transcript,  
27 and document organization time.” *Nadarajah v. Holder*, 569 F.3d 906, 921 (9th Cir. 2009); *Jones*  
28 *v. Metropolitan Life Ins. Co.*, 845 F. Supp. 2d 1016, 1027 (N.D. Cal. 2012) (discounting time for

“filing or retrieving electronic court documents or copying”). Moreover, “[c]ounsel for the prevailing party should make a good faith effort to exclude from a fee request hours that are excessive, redundant, or otherwise unnecessary.” *Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983). Further, district courts “must strike a balance between granting sufficient fees to attract qualified counsel to civil rights cases and avoiding a windfall to counsel.” *Moreno v. City of Sacramento*, 534 F.3d 1106, 1111 (9th Cir. 2008). Accordingly, “[t]he number of hours to be compensated is calculated by considering whether, in light of the circumstances, the time could reasonably have been billed to a private client.” *Id.*

“The lodestar amount is presumptively the reasonable fee amount, and thus a multiplier may be used to adjust the lodestar amount upward or downward only in rare and exceptional cases, supported by both specific evidence on the record and detailed findings by the lower courts that the lodestar amount is unreasonably low or unreasonably high.” *Van Gerwen v. Guarantee Mut. Life Co.*, 214 F.3d 1041, 1045 (9th Cir. 2000); *see also Shayler v. 1310 PCH, LLC*, 51 F.4th 1015, 1021–22 (9th Cir. 2022) (approving adequately explained use of a downward multiplier to calculate attorney fees in ADA case).

## II. ANALYSIS

Plaintiff’s motion seeks to recover fees for one attorney, Tanya E. Moore, Esq., and two paralegals, Whitney Law and Isaac Medrano. (Doc. 36-1 at 8). Ms. Moore seeks to recover 44 hours, Ms. Law seeks to recover 49.6 hours, and Mr. Medrano seeks to recover 7.5 hours, with a combined total of 101.1 hour claimed for time spent in this case until May 5, 2023. (*See* Doc. 36-3 at 23). Plaintiff also seeks to recover an additional 13.9 hours for the total time spent by Ms. Moore (3 hours) and Ms. Law (10.9) in drafting and filing the reply brief. (Doc. 39-2 at 5). In total, Plaintiff seeks to recover \$22,010 in fees for the 115 hours spent by Ms. Moore’s firm in this case. (*Id.*) Plaintiff also contends that he is entitled to \$4,518.74 in costs, which in significant part stem from the \$3,600 fee that he incurred to have a Certified Access Specialist (“CASp”) inspect the store and identify all barriers to Plaintiff’s access. (Doc. 36-2 at 4–6).

As a threshold matter, the Court finds that Plaintiff is entitled to recover attorney fees. A prevailing plaintiff under the ADA “should ordinarily recover an attorney’s fees unless special

1 circumstance would render such an award unjust.” *Barrios v. Cal. Interscholastic Fed’n*, 277 F.3d  
2 1128, 1134 (9th Cir. 2002) (quoting *Hensley*, 461 U.S. at 429). Despite the Defendants’ arguments  
3 to the contrary, the Court is not convinced that there are such special circumstances here.

4 The Court’s review of the record and papers submitted by the parties does not find anything  
5 special about the course of settlement negotiations warranting a finding of special circumstances  
6 and denial of attorney’s fees. Defendants cite no authority in support of this argument and,  
7 moreover, the Court disagrees with Defendants framing that they “attempted to resolve this matter  
8 by making a settlement offer to plaintiff that fairly subsumes the relief available to plaintiff, at the  
9 outset and without protracted litigation.” (Doc. 38 at 5). The record reflects that Defendants’ early  
10 offers before the April 12, 2022, inspection included only a *general* release, while Plaintiff sought  
11 a *limited* releasee unless a site inspection identified all existing barriers. (*Compare* Doc. 38-3 at 2–  
12 3, *with* Doc. 36-2 at 5–6). Therefore, it is not the case that Defendants’ settlement offer “fairly  
13 subsume[d] the relief available to plaintiff.” (Doc. 38 at 5). Because the Court does not find special  
14 circumstances warranting a denial of the Plaintiff’s motion, the Court will turn to the reasonableness  
15 of Plaintiff’s request.

16 In assessing the reasonableness of Plaintiff’s request, the Court first notes that the  
17 Defendants do not argue that Plaintiff’s proposed hourly rates for his attorney, Ms. Moore, or the  
18 two paralegals who worked on Plaintiff’s case, Whitney Law and Isaac Medrano, are unreasonable.  
19 (*See generally* Doc. 38). Rather, Defendants generally contend the amount of time Ms. Moore’s  
20 firm seeks to recover is excessive, unreasonable, and unwarranted. (*See id.* at 6). Defendants also  
21 argue that Plaintiff should not be awarded his expert costs because Plaintiff never produced an expert  
22 report. (*Id.* at 9). The Court agrees with Defendants that a reduction in fees is warranted.

23 The Court acknowledges that while this was a relatively straightforward disability access  
24 case, Plaintiff is entitled to a reasonable amount in attorney fees. And Plaintiff is entitled to a  
25 reasonable amount in attorney fees for the time spent recovering those fees. However, the Court  
26 finds the Plaintiff’s request for 115 hours and \$4,518.74 to be excessive. For the reasons discussed  
27 below, the Court will award Plaintiff \$11,005 in attorney fees for the 57.5 hours the Court finds  
28 were reasonably expended by Plaintiff’s counsel and paralegals in prosecuting Plaintiff’s case,

1 including bringing the instant fee motion. The Court will also reduce Plaintiff's request for an award  
2 of expert witness costs.

3 **A. Hourly Rates**

4 Plaintiff proposes \$300 per hour as a reasonable hourly rate for Ms. Moore and \$115 per  
5 hour for each paralegal. (Doc. 56-1 at 6.) Having reviewed the declaration of Ms. Moore (see Doc.  
6 56-2 at 2–4), the Court finds that Plaintiff's proposed rates are consistent with the rates of  
7 comparable lawyers and paralegals in the Fresno Division, having previously awarded attorney's  
8 fees to Plaintiff at these rates. *See, e.g., Gilbert v. HBA Enterprises, Inc.*, No. 1:21-CV-01358-JLT-  
9 SAB, 2022 WL 2663761, at \*17 (E.D. Cal. July 11, 2022), *report and recommendation adopted*,  
10 2022 WL 3327461 (E.D. Cal. Aug. 11, 2022) (concluding that \$300 attorney rate and \$115 paralegal  
11 rate for Ms. Moore's law firm was reasonable in ADA case).

12 **B. Hours Reasonably Expended**

13 Next, the Court proceeds to the second part of the lodestar analysis—the hours claimed to  
14 have been reasonably expended in this case.

15 Plaintiff contends that the 115 hours billed by Ms. Moore's law firm is a reasonable amount  
16 of time given the delays in finalizing a settlement. Defendants urge the Court to substantially reduce  
17 the total number of hours sought by Plaintiff to 22.10 hours. (Doc. 38 at 9–10). Based on the  
18 reasonable hourly rates, Defendants' proposed lodestar would amount to an award of \$4,391.50.  
19 According to Defendants, Ms. Moore reasonably spent 10 hours and Ms. Law and Mr. Medrano  
20 spent a combined 12.10 hours. (*Id.*). The reduced amount is based on Defendants' argument that  
21 the Court should disallow any fees and costs Plaintiff incurred after Defendants' April 7, 2022 letter  
22 objecting to attorney's fees. (*Id.*).

23 After review of the parties' briefs and relevant billing records, the Court disagrees with  
24 Defendants that attorney's fees after Defendant's April 7, 2022, letter are inappropriate as there was  
25 not even a tentative agreement between the parties to resolve the merits of this case. In particular,  
26 as discussed above, Defendants' offer of settlement included a general release, while Plaintiff was  
27 requesting a limited release if the case was to be resolved prior to a site inspection. (*Compare* Doc.  
28 38-3 at 2–3, *with* Doc. 36-2 at 5–6). Based on the Court's review of the record, the date the parties

1 reached a settlement was on February 7, 2023. (*See* Doc. 36-2 at 7).

2 For the reasons discussed below, the Court will apply a 50% downward multiplier to the  
3 lodestar amount proposed by Plaintiff. The Court finds that a 50% decrease in the lodestar amount  
4 is reasonable due to numerous examples where Plaintiff’s counsel billed an excessive amount of  
5 time for tasks that should have been performed more efficiently. The Court also finds that some of  
6 the litigation efforts were unnecessary or redundant.

7 1. Investigation of Claims & Preparation / Filing of Complaint

8 Ms. Moore spent 3.1 hours reviewing research regarding the parties, performing a conflict  
9 check, reviewing pre-filing investigation findings, and communications with her client between July  
10 22, 2021, and October 2, 2021. (Doc. 36-3 at 2). Ms. Law spent .7 hours reviewing documents and  
11 communications from client, conducting additional information as to defendants, reviewing notes  
12 and photos from investigation, and drafting complaint on September 23, 2021.<sup>1</sup> (*Id.*)

13 Here, the total number of hours spent in pre-litigation planning is approximately twice the  
14 amount of time recovered by Ms. Moore’s firm for identical tasks in other cases. *See Gilbert v.*  
15 *Mohamad*, No. 1:22-cv-00554-JLT-EPG, at \*10 (E.D. Cal. May 2, 2023), *report and*  
16 *recommendation adopted*, 2023 WL 3724796 (E.D. Cal. May 30, 2023) (finding a total of 1.8 hours  
17 spent reviewing client communications, researching the identities of defendants, and reviewing  
18 notes and photos from the investigation to be reasonable). The time spent by Ms. Moore’s firm  
19 during the initial stage of this case warrants a significant downward reduction. *See Pierce v. County*  
20 *of Orange*, 905 F.Supp.2d 1017, 1028 (C.D. Cal. 2012) (quoting *Lucas v. White*, 63 F.Supp.2d 1046  
21 (N.D. Cal. 1999)) (“[T]ime reasonably spent on pre-complaint investigation, legal research and  
22 informal discovery relevant to developing the theory of the case is properly recoverable[.]”  
23 (emphasis added)).

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24 <sup>1</sup> The Court notes that Ms. Law’s single entry of time as to “Category 1: Investigation of claims and preparation/filing  
25 of Complaint,” (*see* Doc. 36-3 at 2), was entered using “block billing”—a time-keeping method by which billing  
26 statements lump together multiple tasks, rather than itemizing time expended on each separate task.” *Welch v.*  
27 *Metropolitan Life Ins. Co.*, 480 F.3d 942, 945 n.2 (9th Cir. 2007). With block billing, the Court cannot determine how  
28 much time was spent on particular tasks or evaluate whether the time spent on such tasks was reasonable. *See id.* at  
948. More specifically here, the Court cannot separate out time spent on investigating Plaintiff’s claims and time spent  
preparing the complaint. The Ninth Circuit has approved fee reductions for block billing. *Welch*, 480 F.3d at 948 (citing  
*Hensley*, 461 U.S. at 437 (holding that an application for attorney’s fees must be supported by billing records that enable  
the reviewing court to easily identify the hours reasonably expended)).

Further, Ms. Moore spent 1 hour instructing Ms. Law regarding the drafting of the complaint, reviewing the draft complaint, and corresponding with the client regarding the complaint. (ECF No. 29-3, p. 3). Given Ms. Moore’s experience with filing ADA complaints and because the complaint in this case was very similar to others filed in past cases, *see Trujillo v. Lakhani*, No. 1:17-CV-00056-LJO-SAB (E.D. Cal. Jan. 12, 2017) (Doc. 1), a significant downward reduction is also warranted, *see Trujillo v. Lakhani*, No. 1:17-CV-00056-LJO-SAB, 2017 WL 1831942, at \*7 (E.D. Cal. May 8, 2017) (“The time billed is excessive and duplicative and .5 hours would be a reasonable amount of time for Ms. Moore to spend on preparing, researching, reviewing, and drafting the complaint in this action.”).

## 2. Preparation for & Attendance at the Scheduling Conference

Ms. Moore recorded 3.4 hours and Ms. Law recorded 2.9 hours for tasks related to the Court’s telephonic scheduling conference, including conferring with opposing counsel pursuant to Fed. R. Civ. P. 26(f), preparing stipulations to continue the scheduling conference, preparing joint scheduling reports, preparing for the conference, and attending the conference. (Doc. 36-3 at 4–5). The Court finds the amount of time spent preparing for the scheduling conference to be unreasonable, especially given the number of times Ms. Moore has appeared for scheduling conferences in similar ADA cases.

Ms. Moore has 24 years of litigation experience and over 12 years of ADA experience, (*see id.* at 2–3), and could have adequately prepared for the scheduling conferences in an hour. *See, e.g., Block v. Christian*, No. 1:16-CV-00650-LJO-SKO, 2017 WL 5248402, at \*6 (E.D. Cal. Nov. 13, 2017), *report and recommendation adopted*, 2017 WL 6350773 (E.D. Cal. Dec. 13, 2017) (reducing hours spent on preparing for a scheduling conference before this Court by experienced litigator with 12 years of ADA experience). Moreover, the joint scheduling reports filed by the parties contains largely boilerplate language that Ms. Moore has used in scheduling reports filed in other cases. (*Compare, e.g., Doc. 25, with Trujillo v. Velez*, 1:21-cv-001469-SAB (E.D. Cal. Dec. 28, 2021) (Doc. 11). The amount of time spent on these tasks should therefore be substantially reduced.

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1           3.       Site Inspection

2           Ms. Moore billed 11.2 hours of time related to the April 12, 2022, CASp site inspection  
3 performed by Plaintiff's consultant, including preparation (.3 hours), instructions for and review of  
4 paralegal draftings (.3 hours), communications with client (.3 hours), review of a court order (.1  
5 hours), meet and confer efforts with opposing counsel (.6 hours), correspondence with opposing  
6 counsel (1.4 hours), travel time (6 hours), and attending the inspection (2 hours). (Doc. 56-3 at 15–  
7 16.) Additionally, Mr. Medrano and Ms. Law billed 2.1 hours related to the inspection, including  
8 correspondence with opposing counsel (1 hour), correspondence with expert (.5 hours), and drafting  
9 demands (.5 hours). The Court finds that a significant downward departure is warranted.

10           First, Ms. Moore did not explain the benefit or substantive merit of her attendance at the  
11 inspection in this case. Thus, a substantial decrease in the hours claimed is appropriate. *See, e.g.,*  
12 *Gilbert v. Dollar Tree Stores, Inc.*, No. 1:21-CV-01640-EPG, 2023 WL 7736500, at \*6 (E.D. Cal.  
13 Nov. 14, 2023) (“Plaintiff does not explain the benefit or substantive merit of Ms. Moore’s  
14 attendance at a routine inspection under these circumstances. Thus, a significant decrease in the  
15 hours claimed is appropriate.”). Second, the Court finds that the other 5.1 hours billed related to the  
16 site inspection are also excessive and warrant a downward departure. *See, e.g., Block v. Christian*,  
17 No. 116CV00650LJOSKO, 2017 WL 5248402, at \*8 (E.D. Cal. Nov. 13, 2017), *report and*  
18 *recommendation adopted*, No. 116CV00650LJOSKO, 2017 WL 6350773 (E.D. Cal. Dec. 13, 2017)  
19 (“Ms. Moore spent 2.3 hours on preparation for and correspondence about the inspection, alone,  
20 when such routine work should have taken a fraction of that time for an attorney as experienced in  
21 these types of cases as Ms. Moore.”).

22           4.       Amendment of Complaint

23           Next, the Court finds that the number of hours Ms. Moore billed in this case as to the  
24 amendment of the complaint is not reasonable given the nature of this case and Ms. Moore's  
25 experience in these types of actions. Ms. Moore states that between November 28 and 29, 2022,  
26 she and Ms. Law spent 2.3 hours preparing, reviewing, and revising the first amended complaint  
27 and stipulation. (Doc. 36-3 at 8). Based upon the Court's familiarity with the actions filed by Ms.  
28 Moore's firm in this court, the Court is aware that this is basically a form complaint and the only

1 substantive changes in the amended complaint were the addition of identified barriers to paragraph  
2 11. (*Compare* Doc. 1, with Doc. 32). The Court finds 2.3 hours between Ms. Moore and Ms. Law  
3 excessive and warranting of a downward departure. *See Gutierrez v. Leng*, No. 1:14-CV-01027-  
4 WBS, 2015 WL 1498813, at \*9 (E.D. Cal. Mar. 31, 2015) (“The Court finds that .5 hours of both  
5 Ms. Moore’s and Ms. Law’s time is sufficient to draft the first amended.”), *report and*  
6 *recommendation adopted*, No. 114CV01027WBSSKO, 2015 WL 13667745 (E.D. Cal. May 8,  
7 2015).

8 Additionally, Ms. Law spent 6.3 hours on preparing the motion to amend and related reply  
9 and Ms. Moore spent 2 hours for her review of the opposition to the motion to amend and preparation  
10 of reply. The Court finds this excessive, as the motion to amend was routine and nearly identical to  
11 motions to amend filed by Ms. Moore in other similar cases, (*compare* Doc. 28, with *Moore v. Singh*,  
12 No. 1:15-cv-00450-SKO (E.D. Cal. Sept. 16, 2025) (Doc. 18); and *Trujillo v. SSSC, Inc.*, 21-cv-  
13 01691-ADA-BAM (E.D. Cal. December 21, 2022) (Doc. 76)), and not legally complex. Therefore,  
14 this too warrants a downward departure. *See, e.g., Kalani v. Nat’l Seating & Mobility, Inc.*, No.  
15 2:13-CV-00061 JAM-CK, 2014 WL 3956669, at \*3 (E.D. Cal. Aug. 13, 2014) (“the Court finds the  
16 hours expended on the motion to amend to be excessive. . . . [t]his motion was straightforward and  
17 did not involve complex legal issues.”); *cf. Acosta v. Perez*, No. 119CV01224AWIEPG, 2021 WL  
18 3910543, at \*13 (E.D. Cal. Sept. 1, 2021) (“Other judges in this District have reduced Ms. Moore’s  
19 time spent in preparing motions for default judgment where the motion filed is nearly identical to  
20 motions for default filed by Ms. Moore in other actions.”), *report and recommendation adopted*,  
21 No. 119CV01224AWIEPG, 2021 WL 4461536 (E.D. Cal. Sept. 29, 2021).

22 5. Motion for Attorney’s Fees

23 Ms. Moore billed 5.1 hours for her time spent drafting and editing the instant motion and  
24 associated reply. (Docs 36-3 at 23; 39-2 at 5). Ms. Law billed 33.2 hours on the same matters.  
25 (Docs 36-3 at 23; 39-2 at 5). The Court finds that 38.3 hours is quite excessive for the drafting of a  
26 routine motion for attorney’s fees and associated reply. *See Block v. Christian*, No.  
27 116CV00650LJOSKO, 2017 WL 5248402, at \*6 (E.D. Cal. Nov. 13, 2017) (finding that 33.8 hours  
28 was excessive for the drafting of a motion for attorney’s fees, especially in light of the attorney’s

1 expertise in ADA matters, and finding that “5 hours [was] a reasonable amount of time for counsel  
2 to have spent drafting, editing, and finalizing the [motion for attorney’s fees] and accompanying  
3 declaration), *report and recommendation adopted*, No. 116CV00650LJOSKO, 2017 WL 6350773  
4 (E.D. Cal. Dec. 13, 2017). Because the Court finds that the amount of time billed for the instant  
5 motion and associated reply is excessive, the associated billing also warrants a downward departure.

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6. Communications with Plaintiff

Between July 24, 2021 and March 29, 2023, Ms. Moore, Ms. Law, and Mr. Medrano collectively spent 6.55 hours communicating with or reviewing communications with Plaintiff.

Date	Biller	Memo	Time
7/24/2021	Tanya Moore	Letter to the client	0.5
7/24/2021	Tanya Moore	Reviewed communication from the client.	0.1
8/29/2021	Tanya Moore	Attention to client correspondence	0.25
8/29/2021	Tanya Moore	communications with the client re fact gathering	0.2
10/2/2021	Tanya Moore	Reviewed correspondence from the client of 9/27 re: complaint	0.3
4/7/2022	Tanya Moore	tc with the client	0.35
11/28/2022	Tanya Moore	Communications with the client in preparation of the FAC	0.5
2/2/2022	Tanya Moore	Communications with the client re [preparation of the SAR]	0.25
2/14/2022	Tanya Moore	Phone call with client re settlement	0.5
2/14/2022	Tanya Moore	Communications with the client and Mr. Aguilar re settlement	0.6
6/27/2022	Tanya Moore	Communications with the client re consultant's recommendations re injunctive and correspondence with the client re same	0.6
8/11/2022	Tanya Moore	TC w/ client re settlement agreement revisions	0.5
1/20/2023	Tanya Moore	TC w/Trujillo re revisions to the SAR	0.6
1/31/2023	Tanya Moore	Correspondence with Mr. Aguilar, client re final revisions in version 6 of the settlement agreement	0.5
3/29/2023	Tanya Moore	Preparation of correspondence to client with disbursement of damages payment	0.1
<b>Sum of Ms. Moore's Time</b>			<b>5.85</b>
3/3/2023	Whitney Law	Receive email from defense counsel with counter offer for fees and costs; forward to client; memo to file	0.2
<b>Sum of Ms. Law's Time</b>			<b>0.2</b>
12/1/2022	Isaac Medrano	Called client re deposition and depo prep	0.2
2/4/2022	Isaac Medrano	Correspondence to client with draft settlement agreement for review	0.1
1/31/2023	Isaac Medrano	Correspondences to client and defense counsel with final settlement agreement to sign	0.2
<b>Sum of Mr. Medrano's Time</b>			<b>0.5</b>
<b>TOTAL TIME</b>			<b>6.55</b>

These calculations do not include the 6.9 hours of billed time entries that were in part based on communication with Plaintiff but were block billed such that the Court cannot discern how much time was actually spent communicating with or reviewing communication from Plaintiff.

	Date	Biller	Memo	Time
1				
2	9/27/2021	Tanya Moore	Attention to final draft of the complaint and instructions to paralegal re same. Communications with the client re same.	0.6
3				
4	11/30/2022	Tanya Moore	Preparation for depositions of the client and PMKs, instructions to IM and WL re depo notice preparation, topics, etc. Emails with IM re same, phone conference with WL re topics.	0.5
5	3/8/2022	Tanya Moore	Reviewed counter offer and email from Viviano. TC with client re same.	0.5
6	9/8/2022	Tanya Moore	Discussed counter offer with the client, instructions to WL re preparation of a response to Aguilar with counter demand.	0.4
7				
8	10/18/2022	Tanya Moore	tc WL, tc client, obtained authority from the client, instructions to WL re convey	0.5
9				
10	11/10/2022	Tanya Moore	tc with Mr. Aguilar, he wants to take Mr. Trujillo's deposition instead of settling the case. TC to Mr. Trujillo re same, instructions to WL re proceeding with the scheduling conference.	0.4
11				
12				
13				
14	1/31/2023	Tanya Moore	Reviewed email from the opposing counsel re further revisions to the SAR, acceptance of certain terms, communications with the client re same, phone call with Mr. Aguilar to discuss further revisions and the stipulation that he requested to keep the settlement agreement confidential. Instructions to WL re preparation of the stipulation and further correspondence with the client and Mr. Aguilar to finalize.	0.6
15				
16	2/1/2023	Tanya Moore	Reviewed communications from the client, instructions to IM re sending the final SAR to Mr. Aguilar.	0.1
17	<b>Sum of Ms. Moore's Time</b>			<b>3.6</b>
18				
19	9/23/2021	Whitney Law	Review docs and communications from client; review info from initial investigation and conduct additional research to identify defendants and location for service; review notes and photos from investigation; draft substantive portions of complaint	0.7
20				
21	11/28/2022	Whitney Law	Prepare First Amended Complaint including substantive paragraph 11, incorporating findings from Plaintiff's site inspection and identifying all barriers to his access and how they affect him; email to client re: same	1.7
22				
23	5/24/2022	Whitney Law	Confer w/TM re documents we are waiting for from consultant; email to consultant re same	0.2
24	8/11/2022	Whitney Law	Receive and review email from Aguilar with redlines to settlement agreement; email to client re same	0.2
25				
26	1/20/2023	Whitney Law	Confer w/TM re revisions to settlement agreement to provide for fee motion; revise agreement and send to Aguilar for approval; email to client re same	0.5
27	<b>Sum of Ms. Law's Time</b>			<b>3.3</b>
28	<b>TOTAL</b>			<b>6.9</b>

1 Other courts have significantly reduced the amount of time claimed by Ms. Moore’s firm for  
 2 communications with Plaintiff, given Ms. Moore’s history of representing Plaintiff in similar  
 3 actions. *See, e.g., Gilbert v. Gsarwar Inc.*, Case No. 2:21-cv-02023-MCE-JDP, 2022 WL 4245325,  
 4 at \*4 (E.D. Cal. Sep. 15, 2022), *report and recommendation adopted* 2022 WL 7101283 (reducing  
 5 the time sought in default judgment from 2.4 hours to .50 hours). And courts routinely reduce the  
 6 amount of time claimed by a party for that parties’ use of block billing. *See, e.g., Gauchat-Hargis*  
 7 *v. Forest River, Inc.*, No. 2:11-CV-02737-KJM, 2013 WL 4828594, at \*7 (E.D. Cal. Sept. 9, 2013);  
 8 *see also Grouse River Outfitters, Ltd. V. Oracle Corp.*, 848 F. App’x 238, 245 (9th Cir. 2021) (We  
 9 have recognized that attorneys’ fees awards can be reduced where a party block bills “because block  
 10 billing makes it more difficult to determine how much time was spent on particular activities.”  
 11 (quoting *Welch v. Metro. Life Ins. Co.*, 480 F.3d 942, 948 (9<sup>th</sup> Cir. 2007))).

12 Here, the Court finds that some of the time spent by Ms. Moore, Ms. Law, and Mr. Medrano  
 13 to communicate with Plaintiff was necessary due to Ms. Moore’s obligations as counsel. However,  
 14 some of the communication was substantively unnecessary and impermissibly block billed and,  
 15 therefore, warrant a downward departure.

#### 16 7. CCDA Report

17 On September 30, 2021 and March 1, 2023, Ms. Moore recorded .4 hours for “Attention to  
 18 New Complaint CCDA report drafted by JM and approved for submission” and 1.0 hour preparing  
 19 a “mandatory CCDA report.” (Doc. 36-3 at 22.) Mr. Medrano also billed .5 hours for “review[ing]  
 20 proof of service and busted addressed for service via CCDA portal” (.1 hours) “draft[ing] CCDA  
 21 case resolution report” (.1 hours), and “review[ing] fully signed settlement agreement and  
 22 prepar[ing] CCDA case resolution report for attorney fees motion” (.3 hours). (*Id.*) Finally, Ms.  
 23 Law billed .2 hours for “[i]nstruction to IM re preparation of CCDA reporting and stipulation for  
 24 dismissal.” (*Id.*) As this Court has previously found, these tasks are “clerical in nature.” *See Gilbert*  
 25 *v. Gsarwar Inc.*, No. 2:21-CV-02032-MCE-JDP, 2022 WL 4245325, at \*4 (E.D. Cal. Sept. 15,  
 26 2022), *report and recommendation adopted*, 2022 WL 7101283 (E.D. Cal. Oct. 12, 2022)  
 27 (deducting 0.3 hours spent by a paralegal to prepare and submit a report “on CCDA portal.”).  
 28 Because these tasks were clerical and not subject to compensation, *see Missouri v. Jenkins by Agyei*,

491 U.S. 274, 288 n.10 (1989) (purely clerical tasks will not be compensated), here too the Court observes a need for a downward departure.

\* \* \*

Based on these representative examples, the Court will apply a 50% downward multiplier to the number of hours claimed by Ms. Moore's firm. Accordingly, the Court finds the lodestar figures are as follows:

Person	Hours <sup>2</sup>	Hourly Rate	Total
Tanya E. Moore	23.65	\$300.00	\$7,095.00
Whitney Law	30.25	\$115.00	\$3,478.75
Isaac Medrano	3.75	\$115.00	\$431.25
Total Fees			\$11,005.00

Thus, the Court finds the total amount of reasonable attorneys' fees to be \$11,005.00.

## 8. Costs

Under the ADA, a court, in its discretion, can allow a prevailing party to recover reasonable attorneys' fees, including litigation expenses and costs. 42 U.S.C. § 12205. Litigation expenses "include items such as expert witness fees, travel expenses, etc." *Lovell v. Chandler*, 303 F.3d 1039, 1058 (9th Cir. 2002) (quoting 28 C.F.R. Pt. 35, App. A., Section-by-Section Analysis, § 35.175).

Plaintiff seeks \$4,518.74 in costs. (Doc. 36-1 at 14.) Defendants object to the cost of Plaintiff's CASp inspection, in large part because Plaintiff did not provide Defendants with the report. (See Doc. 38 at 9.) Plaintiff counters that the "written memo" was "prepared for the purposes of litigation" and that he "has no obligation [to share it]." (Doc. 39).

At least one court has found it relevant in determining whether an award of costs associated with a that a plaintiff did not produce a report to defendant, despite the fact that the site inspection consultant's invoice referenced "report preparation." See *Gilbert v. Dollar Tree Stores, Inc.*, No. 1:21-CV-01640-EPG, 2023 WL 7736500, at \*8 (E.D. Cal. Nov. 14, 2023). Here, as in *Gilbert*, the

<sup>2</sup> The hours in this column represent a 50% downward multiplier to the 47.3 hours billed by Ms. Moore, (see Docs. 36-1 at 15; 39 at 7), 60.5 hours billed by Ms. Law, (see Docs. 36-1 at 15; 39 at 7), and 7.5 hours billed by Mr. Medrano. These hours include the hours billed as reflected in the motion for attorney's fees, (see Doc. 36-1 at 15; see also Doc. 36-3 at 2-23), plus the additional hours billed for the preparation of the reply brief, (see Doc. 39 at 7; see also Doc. 39-2 at 5).

1 consultant's invoice references "report preparation" and Plaintiff did not provide any documentation  
2 of the expert's written findings. The distinction in this case is that Ms. Moore represents she had  
3 no obligation to turn the written findings over as it was "prepared for the purposes of litigation."  
4 (Doc. 39 at 4). The Court declines to resolve the matter of whether Plaintiff had an obligation to  
5 turn the report over, as Plaintiff represented that he would share the report if Defendant's paid for  
6 it. (*Id.*) Because Plaintiff now seeks costs from Defendants, which the Court will grant in part, the  
7 Court will order Plaintiff to provide the consultants written findings to Defendants.

8 Continuing its analysis as to whether Plaintiff's costs are reasonable, the Court observes that  
9 the invoice submitted in support of Plaintiff's expert witness fees is not itemized, (*see* Doc. 36-3 at  
10 32), and does not permit the Court to determine whether the expenditures are reasonable. *See*  
11 *Hopson v. Singh*, No. 2:16-cv-3014-TLN-EFB, 2019 WL 4298040, at \*4-5 (E.D. Cal. Sept. 11,  
12 2019) (denying request for \$2,162.50 in expert witness site inspection fees and declarations because  
13 invoice did not specify how much time the expert spent completing each inspection); *see also*  
14 *Johnson v. Yates*, No. 2:14-cv-1189-TLN-EFB, 2017 WL 3438737, at \*3 (E.D. Cal. Aug. 10, 2017)  
15 (finding that "billing \$200 for an ambiguous 'investigation' without providing supporting  
16 documents" was unreasonable). Moreover, the Court observes that the amount charged for the  
17 CASp site inspection, \$3,600, appears to be excessive. (*See* Doc. 36-3 at 32). Indeed, one court  
18 recently accepted the prevailing market rate for such an inspection as \$1,000–\$1,500. *See*  
19 *Hernandez v. MRVS Enterprises Inc.*, No. 3:21-CV-06441-JSC, 2023 WL 8720138, at \*8 (N.D. Cal.  
20 Dec. 18, 2023) (reducing \$2,800 CASp inspection cost request to \$1,500). Ms. Moore has  
21 previously sought costs of \$1,295 for a CASp inspection. *See Acosta v. Perez*, No. 19-CV-01224  
22 AWI EPG, 2021 WL 3910543, at \*14 (E.D. Cal. Sept. 1, 2021), *report and recommendation*  
23 *adopted*, 2021 WL 4461536 (E.D. Cal. Sept. 29, 2021).

24 Because the invoice is not itemized and the amount sought is excessive considering the  
25 prevailing market rate, the Court will therefore award \$1,500 as reasonable amount for the CASp  
26 site inspection. *See Hernandez*, 2023 WL 8720138, at \*8.

27 As to the other costs—\$194.93 for a pre-filing investigation, a \$402 filing fee, \$236.80 to  
28 effectuate service of process, and \$85.01 for online legal and public records searches—the Court

1 finds those costs reasonable.

2 **III. CONCLUSION**

3 Based on the foregoing, IT IS ORDERED that Plaintiff's motion for attorney fees and expert  
4 witness costs, (Doc. 36) is granted in part as follows:

- 5 1. Plaintiff is AWARDED \$11,005.00 in attorney fees;  
6 2. Plaintiff is AWARDED \$2,418.74 in costs;  
7 3. Plaintiff is ORDERED to provide Defendants with a copy of the CASp report by no  
8 later than seven (7) days after the filing of this order.

9  
10 IT IS SO ORDERED.

11 Dated: October 17, 2025

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE